

Military Leave Rights

Federal law — The Uniformed Services Employment and Reemployment Rights Act (USERRA) — provides employees who are called up to perform military service with reemployment rights:

- USERRA protects employees who are gone from work for up to five years. Employees may choose to use their paid vacation time for some of this period, but the choice is theirs.
- When possible, employees must give you reasonable advance notice that they will need leave. If they get short notice, so will the employer.
- If you have a health plan, you must offer it to them for 18 months. There are restrictions on how much the employer may charge them for it.
- If military leave is 90 days or less, the employer must promptly return the employee to the same job he or she would have had if he or she had worked during that time. Employees continue to accrue seniority while on military leave and must be given any raises and promotions associated with that seniority.
- If leave is more than 90 days, the employer may substitute a different job with the same pay, status, and seniority, as the job the employee would have had.
- If military leave lasts more than 30 days, the law provides job protection for returning employees for six to 12 months (depending on the length of her leave). During that time, the employee may only be terminated for cause.

If an employer violates USERRA, it can be sued by the employee or the U.S. attorney general.

Vermont law provides protection for reserve training and military duty. See 21 V.S.A. §§ 491 - 493. Employees must notify employers of the need for leave 30 days prior to the date of departure or as soon as practical after being called into service. The employee has a right to return to their job after the leave period, unless no longer qualified for the job. The employee may not lose any sick leave, vacation time, bonuses, promotion and other benefits because of such leave. The employee is authorized to sue to enforce his or her rights under this section.

Please note that the protection provided by these state and federal laws are in addition to the protections provided by the family and medical leave laws, fair employment practices act and the Americans with Disabilities Act.